

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Clarence Bogan,

Plaintiff,

v.

Case No. 1:11cv259

Timothy Brunsman, *et al.*,

Judge Michael R. Barrett

Defendants.

ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on May 27, 2011. (Doc. 7.)

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the R&R in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Plaintiff filed timely objections to the Magistrate Judge’s R&R. (Doc. 9.) Plaintiff has also filed a “Motion Seeking an Explanation.” (Doc. 10.)

In her R&R, the Magistrate Judge recommends that Plaintiff’s Motion to Proceed *in forma pauperis* should be denied with respect to all Plaintiff’s claims except Claim 4.

In his objections, Plaintiff sets forth various factual allegations and makes several requests. Plaintiff claims that Defendants have barred his access to his property, including the materials he needs to address the surviving claim. Plaintiff is seeking: (1) a temporary order telling Defendants to provide him with access to his property; (2) an order directing the FBI and U.S. Marshals to seize certain records which are relevant to his claims; (3) for the Court to *sua sponte* amend his claims; (4) for the Court to appoint counsel to represent

him in this matter.

In his Motion Seeking an Explanation, Plaintiff asks why his civil action has not been served on Defendants. Plaintiff also makes additional factual allegations.

This Court reviews *de novo* those portions of the R&R to which objection is made. 28 U.S.C. § 636(b)(1). This Court may accept, reject, or modify any or all of the Magistrate Judge's findings or recommendations. *Id.* However, “[t]he objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). The Court finds that Plaintiff fails to identify any specific errors in the R&R, but merely repeats or alleges facts related to past action by prison officials. To the extent that Plaintiff alleges new facts relevant to Claim 4, those allegations are properly made as part of an amended pleading. Similarly, the other relief requested by Plaintiff should be made by separate motion.

Finally, Plaintiff seeks an explanation as to why his Complaint has not been served. When an individual is granted leave to proceed *in forma pauperis*, “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases.” 28 U.S.C. § 1915(d). Plaintiff has yet to be granted leave to proceed *in forma pauperis* on any of his claims. Therefore, the Court has not issued Plaintiff’s summons or appointed a United States Marshal to serve the summons. See Fed. R. Civ. P. 4(c)(3) (explaining that at the plaintiff’s request, the court may order a United States Marshal to serve plaintiff’s summons and complaint where “the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915”).

Accordingly, it is **ORDERED** that:

1. The May 27, 2011 R&R of the Magistrate Judge (Doc. 7) is hereby **ADOPTED**;
 - a. Plaintiff's Motion to proceed *in forma pauperis* is GRANTED as to Claim 4 of the Complaint and DENIED as to all other claims;
 - b. With respect to his other claims, Plaintiff shall pay the \$350 filing fee within thirty (30) days;
 - c. The failure to pay the full filing fee within thirty (30) days will result in the dismissal of these claims; and
2. Plaintiff's Motion Seeking an Explanation (Doc. 10) is hereby **GRANTED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett
Michael R. Barrett
United States District Judge